IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JODHPUR

O R D E R

(1) **S.B. CIVIL WRIT PETITION NO. 6273/2005**

(Mst. Gulrose Vs. State of Rajasthan & Ors.)

(2) **S.B. CIVIL WRIT PETITION NO. 6520/2005**

(Mst. Anjum Ansari Vs. State of Rajasthan & Ors.)

(3) **S.B. CIVIL WRIT PETITION NO. 6559/2005**

(Mst. Halima Bano Vs. State of Rajasthan & Ors.)

Date of Order : 11/05/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Manish Sisodia for the petitioners.

Mr. Rameshwar Dave, Dy. Govt. Advocate for the respondents in W.P. No. 6520/2005 and 6559/2005.

Mr. S.M.Toshniwal on behalf of
Mr. N.M.Lodha, Addl. Advocate General for respondents in W.P. No. 6273/2005.

BY THE COURT:-

All these three writ petitions involve common question of law and facts and therefore, with the consent of learned counsel for the parties, they are heard and decided together.

All the three petitioners applied for the post of

Teacher Gr.III under the category woman divorcee in pursuance of advertisement Annex.5 in W.P. No. 6273/05 dated 10.4.2005. The respondents by order dated 27.6.2005 Annex.6 in W.P. No.6273/05 and similar orders in three other writ petitions, declined to consider the case of the petitioners on the ground that all the petitioners failed to file the decree of dissolution of marriage.

It is contended by learned counsel for the petitioners that all the petitioners are governed by the Muslim Personal Law and in Muslim Personal Law, even the statement of muslim lady stating that she has been given Talak even orally, has to be accepted and the respondents fell in error in insisting upon filing the decree of dissolution of marriage. Learned counsel has relied on a decision of this Court in State of Rajasthan and others Vs. Mst. Shameem Akhtar, RLW 1998 (1) Raj. 111 wherein this Court held as under :-

> "it is not disputed in the present case before me that plaintiff-non-petitioner has produced an affidavit along with Talaknama. In such a situation, the defendant-petitioners are not entitled to insist upon to produce a decree of divorce from a Court. The act of the defendant-petitioners in the present case, demanding from the plaintiff-non-petitioner to produce a decree of divorce from a court to include her name in Schedule 'A' meant for divorced women candidates for appointment on the post of Teacher Gr.III so as to fulfill the eligibility criteria according to advertisement published in daily newspaper "Rajasthan Patrika", is impermissible within the meaning of Articles 14 and 16 of the Constitution. The demand of a decree of divorce from a Court from the non-petitioner-plaintiff

> to include her name in Schedule 'A' meant for divorced woman candidates for her appointment on the post of Teacher Gr.III amounts to denial of equal opportunity for all citizens similarly circumstanced in matters relating to employment."

A reply to the writ petition has been filed in all the three writ petitions stating therein that the cut off marks for appointment under the category 'divorced women, OBC' is 41.050 marks whereas the petitioners secured much less marks than the cut off marks. In Writ Petition No.6273/05 the cut off marks is 41.050 whereas petitioner Mst. Gulrose secured 32.343 marks. In Writ Petition No. 6520/05 the cut off marks is 41.050 whereas petitioner Mst. Anjum Ansari secured 33.461 marks and in Writ Petition No. 6559/05 the cut off marks is 41.050 whereas petitioner Mst. Halima Bano secured 34.043 marks. Thus, all the three petitioners secured much less marks than the cut off marks and even otherwise not eligible for selection and appointment. So far as insistence of the respondents for producing the decree of dissolution of marriage is concerned, the controversy stands concluded by this Court in State of Rajasthan and others Vs. Mst. Shameem Akhtar (supra). However, this controversy need not to be gone into for the reason that even if the order insisting production of decree of dissolution of marriage is set aside, then also, the petitioners are not eligible for selection and appointment.

In this view of the matter, the writ petitions stand dismissed. Stay petitions also stand dismissed. There shall be no order as to costs.

(H.R.PANWAR),J.

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